

Title	Forms for Income Deduction Orders to Collect Unpaid Restitution in Criminal Cases (approve forms CR-118 and CR-119).
Summary	These forms would used be by the courts to enter income deduction orders where a defendant is ordered to pay restitution in a criminal case.
Source	Criminal Law Advisory Committee
Staff	Joshua Weinstein, 415-865-7688, joshua.weinstein@jud.ca.gov
Discussion	<p>Upon entry of a restitution order in a criminal case, the court is to enter an income deduction order; the order is stayed unless the defendant fails to pay restitution. (Pen. Code, § 1202.42(a) and (b).) When entering the income deduction order, the court is to furnish the defendant with a statement of his or her rights. (Pen. Code, § 1202.42(e).)</p> <p>The proposed forms would assist the court in meeting the requirements under Penal Code section 1202.42. As required by Penal Code section 1202.42(e), the proposed optional form CR-118, <i>Notice of Rights, Remedies and Duties for Income Deduction Order</i>, would include notification to the defendant of:</p> <ul style="list-style-type: none"> • Fees and Interest to be charged. • The amount of income to be deducted. • That the order applies to current and future employers. • How to contest the order. • That the order is stayed unless the defendant fails to pay restitution and other statutorily required information. <p>The proposed optional CR-119, Order For Income Deduction, is the income deduction order with notifications to the employer. The order is to be completed after the stay of the income deduction order has been lifted because of the defendant's failure to pay restitution.</p>
	Attachments

SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	FOR COURT USE ONLY DRAFT #3 2/17/04lm
The People of the State of California <div style="text-align: right;">Plaintiff</div> <div style="text-align: center;">VS</div> <div style="text-align: right;">Defendants(s)</div>	
NOTICE OF RIGHTS, REMEDIES AND DUTIES FOR INCOME DEDUCTION ORDER (PEN. CODE, § 1202.42)	CASE NUMBER:

1. The Court has found that you have the ability to pay restitution and has ordered you to pay restitution of
 \$ _____ at 10% interest to the victim(s)
☐ as listed in the Probation Report.
☐ as noted on the sentencing minute order.
 Payment(s) shall be made as ordered at the hearing.

2. The Court has entered an income deduction order for your employer to deduct \$ _____ plus fees
 of \$ _____ from your pay each pay period. The order is stayed unless you fail to make the restitution payments.
 - (a) The order applies to current and subsequent employers and all periods of employment.
 - (b) Enforcement of the income deduction order may only be contested on the ground of mistake of fact regarding the amount owed or a showing of good cause for nonpayment.
 - (c) You are required to notify the Clerk of the Court within 7 days of a change in your address, a change in your employer(s), or a change in the address of your employer(s).
 - (d) **This income deduction order is stayed pursuant to PC § 1202.42(b), unless you fail to pay the restitution as ordered at the hearing.**
 - (e) Upon receipt of notice that you have failed to pay the restitution ordered at the hearing:
 - (1) The Court or its agent will request that you provide evidence that timely payments have been made or provide information establishing good cause for the failure. If you fail to provide the evidence or fail to establish good cause within 5 days of the request, you will receive notice that the stay will be lifted, and the Court will serve the income deduction order on your employer(s).
 - (2) Within 15 days of being informed that the stay will be lifted, you may apply for a hearing to contest enforcement of the income deduction order on the ground of mistake of fact regarding the amount of restitution owed or on the ground that you have good cause for the nonpayment. The timely request for a hearing will stay the service of the income deduction order until the hearing is held and a determination is made as to whether the enforcement of the income deduction order is proper.

SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	FOR COURT USE ONLY DRAFT #4 3/02/04
The People of the State of California Plaintiff VS Defendants(s)	
ORDER FOR INCOME DEDUCTION (PENAL CODE, § 1202.42)	CASE NUMBER:

To: Employer: _____

Address: _____

Phone: () _____

You are ordered to withhold a portion of the earnings of your employee, _____ ,
 (last 4 digits of Social Security No. _____) , each pay period.

The Court has found that the defendant has the ability to pay restitution under Penal Code Section 1202.42.

Therefore, the Court orders you to deduct \$ _____ from the above-named employee's pay
 each pay period and forward said funds to the

[] Clerk of the Superior Court of California [] Other: _____
 County of _____

This order will terminate upon payment in full or further order of this Court.

Dated: _____

 Judge of the Superior Court

CLERK'S CERTIFICATE

The foregoing is a full, true, and correct
 copy of the original on file in this office.

SEAL

CLERK OF THE SUPERIOR COURT

Dated: _____

By _____, Deputy

(continued on next page)

**SUPERIOR COURT OF CALIFORNIA
COUNTY OF _____**

PEOPLE OF THE STATE OF CALIFORNIA vs. DEFENDANT:	CASE NUMBER:
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Notice to Employer re: Order for Income Deduction (PC § 1202.42)

1. You are required to deduct the amount specified in the Order for Income Deduction from the employee's income and to pay that amount to the Clerk of the _____ Superior Court or its agent.
2. The order is to be implemented no later than the first payment date that occurs more than 14 days after the date of service of the order.
3. Within two days after each payment date, forward the amount deducted and a statement as to whether the amount totally or partially satisfies the periodic amount specified in the income deduction order.
4. If you fail to deduct the proper amount from the employee's income, you are liable for the amount you should have deducted, plus costs, interest, and reasonable attorney's fees.
5. You may collect up to five dollars (\$5) against the employee's income to reimburse you for administrative costs for the first deduction and up to one dollar (\$1) for each deduction thereafter.
6. This order and notice are binding until further notice by the Court or until you no longer provide income to the employee.
7. When you no longer provide income to the employee, you must notify the Clerk of the _____ Superior Court and provide the employee's last known address and the name and address of the employee's new employer, if known. If you violate this provision, you are subject to a civil penalty not to exceed two hundred fifty dollars (\$250) for the first violation or five hundred dollars (\$500) for any subsequent violation.
8. You must not discharge, refuse to employ, or take disciplinary action against the employee because of an income deduction order. If you violate this provision, you are subject to a civil penalty not to exceed two hundred fifty dollars (\$250) for the first violation or five hundred dollars (\$500) for any subsequent violation.
9. If you receive income deduction orders for two or more employees, sent by the same court, you may combine the amounts that are to be paid in a single payment as long as you identify the portion of the payment that is attributable to each employee.
10. If you receive two or more income deduction orders against the same employee, you must contact the Court for further instructions.